

COMMONWEALTH

v.

EMORY G. SNELL, JR.

ORDER

This case came before the court today for hearing of the defendant's Motion for Written Discovery.

After argument by counsel, and on consideration, it is ORDERED that the Commonwealth, and all persons or entities in possession or control of the following items shall deliver them forthwith to Irving Marmer, attorney for the defendant, for inspection and copying.

1. All autopsy notes, records and reports; the entire gross anatomic examination, chemical, chromatic, microscopic and serological measurements, readings and studies undertaken or completed that are ancillary to, or in clarification of the conclusions, exclusions or in support of the Commonwealth's medical examiner's trial testimony during the month of August, 1995.
2. The common, generic or trade names of all medications, over-the-counter remedies and nutritional substances ingested, inhaled, or in apparent use by Elizabeth Lee Snell, late of 1051 Old Putnam Avenue, Marston Mills, Massachusetts.
3. All medical records relating directly or indirectly to the care, diagnosis and treatment of Elizabeth Lee Snell from January 1, 1993, to and including March 18, 1995.
4. Transcripts of all oral communications to, from or by Elizabeth Lee Snell within the 48 hour intervals before and after March 16 and 18, 1995.
5. All written communications to, from or by Elizabeth Lee Snell during the period beginning January 1, 1995, to March 18, 1995.

December 16, 2005

/s/ Richard F. Connon
Associate Justice
Superior Court

COMMONWEALTH

V.

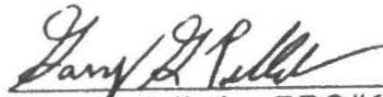
EMORY G. SNELL, JR.

**DEFENDANT'S MOTION FOR ENLARGEMENT OF 2005 DISCOVERY ORDER TO
INCLUDE PERSONNEL FILE**

Defendant Emory Snell, by and through undersigned counsel, hereby moves this Honorable Court to enter an order directing the Office of the Chief Medical Examiner ("OCME") to provide him with the personnel file of Dr. William Zane ("Dr. Zane"). In 1995, a jury convicted Mr. Snell of the crime of First Degree Murder. Commonwealth v. Snell, 428 Mass. 766 (1999). The Commonwealth alleged that Mr. Snell asphyxiated his wife, Elizabeth, on March 17, 1995. In a case with no percipient witnesses and no physical evidence linking Mr. Snell to the crime, the Commonwealth obtained a conviction based almost entirely upon the testimony of Dr. Zane.

Since Mr. Snell's trial, the Court (Connon, J.), in 2005, issued a discovery order directing the disclosure of information held in the possession, custody and control of the OCME. As a direct result of this Court's 2005 discovery order, new evidence has surfaced revealing that the Commonwealth's testifying medical examiner, Dr. William Zane, failed to conduct even the most minimally competent autopsy. Perhaps most strikingly, Dr. Zane, who the OCME subsequently

EMORY SNEEL
By his attorneys.



Gary G. Pelletier, BBO#631732
PELLETIER CLARKE & CALEY
35 Touro Street
Newport, Rhode Island 02840
Tel: (401) 849-4400
Fax: (401) 849-8444
Email: gpelletier@pcclaw.net

Certificate of Service

I, Gary G. Pelletier, hereby certify that on September 12, 2012, I served a true and correct copy of the within motion, attached exhibits and affidavit upon counsel for the Commonwealth of Massachusetts, Julia Holler, Esq., by hand delivery at the Office of the Cape & Islands District Attorney's Office, 3231 Main Street, Barnstable, Massachusetts.



This court should consider the issue of waiver in ruling on this request for discovery. The defendant wishes to go through Zane's personnel records in order to potentially craft a third motion for a new trial, and a fourth attempt overall to overturn his conviction.

CONCLUSION

For the foregoing reasons, the Commonwealth respectfully requests that this Honorable Court deny the defendant's Motion for Enlargement of 2005 Discovery Order to include Personnel File.

Respectfully submitted,

Michael D. O'Keefe
District Attorney
BIO# 378145

Julia K. Holler
Assistant District Attorney
BIO# 550378

Cape and Islands District
3241 Main Street
P.O. Box 455
Barnstable, MA 02630
(508) 362 8113

October 24, 2012